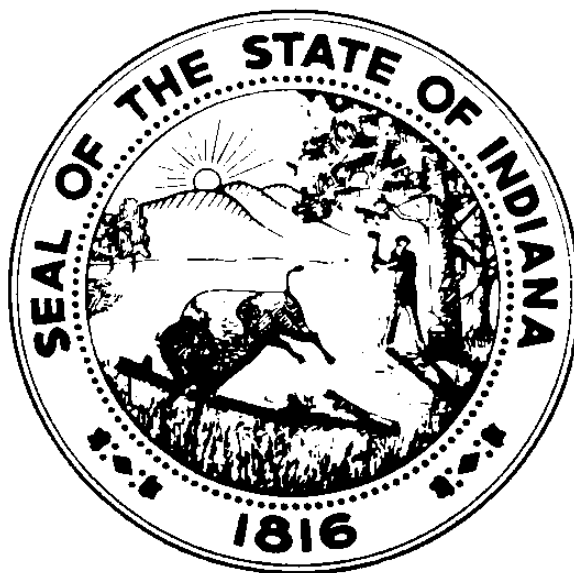


# **PRIVATE DETECTIVES LICENSING BOARD STATUTES AND RULES**

**2006  
Edition**



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If you wish to obtain additional copies of this law book, they are available for free on our website at <http://www.in.gov/pla/bandc/detective>. Additional hard copies are available for the cost of copying and mailing from the Indiana Professional Licensing Agency. Please email [pla11@pla.in.gov](mailto:pla11@pla.in.gov) for additional information.

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If you notice any errors or omissions in this or any other rulebook published by the Indiana Professional Licensing Agency, please write to Board Director, 402 West Washington Street, Room W072, Indianapolis, IN 46204-2700. Your help improving these rulebooks is greatly appreciated.

The following rules were amended in 2003: 862 IAC 1-1-6.

The following rules were amended in 2004: 862 IAC 1-1-3.

The following statutes were amended in 2005: IC 25-30-1-16 and IC 25-30-1-17.

## IC 25-30

# ARTICLE 30. PRIVATE DETECTIVES AND POLYGRAPH EXAMINERS

## IC 25-30-1

### Chapter 1. Licensing of Private Detectives

#### IC 25-30-1-1 Short title

Sec. 1. This chapter may be cited as the "Detective License Law."

*(Formerly: Acts 1961, c.163, s.1.) As amended by Acts 1982, P.L.154, SEC.87.*

#### IC 25-30-1-1.2 Exceptions

Sec. 1.2. (a) Except as provided in subsection (b), this chapter does not apply to a law enforcement officer (as defined in IC 3-6-6-36) who has graduated from the law enforcement training academy and is employed full time as a law enforcement officer.

(b) This chapter applies to a law enforcement officer to the extent that the law enforcement officer is engaged in the business of private detective as an individual with the assistance of a licensed or unlicensed person.

*As added by P.L.186-1990, SEC.10. Amended by P.L.214-1993, SEC.67.*

#### IC 25-30-1-2 Definitions

Sec. 2. As used in this chapter:

(1) "**Person**" means an individual, a firm, a company, an association, an organization, a partnership, or a corporation.

(2) "**Licensee**" means a person licensed under this chapter.

(3) "**Private detective**" means a person who conducts a private detective business with or without the assistance of an employee.

(4) "**Private detective business**" means the business of:

(A) making, for hire or reward, investigation or investigations for the purpose of obtaining information with reference to:

(i) a crime against the state or wrongs done or threatened;

(ii) the habits, conduct, movements, whereabouts, association, transactions, reputation, or character of a person;

(iii) credibility of witnesses or other persons;

(iv) the location or recovery of lost or stolen property;

(v) the causes, origin, or responsibility for fires or

accidents or injuries to real or personal property; or

(vi) the truth or falsity of a statement or representation;

(B) securing, for hire or reward, evidence to be used for authorized investigation committees or boards of award or arbitration or in the trial of civil or criminal cases; or

(C) furnishing, for hire or reward, a guard or guards or other persons to protect persons or property or to prevent the misappropriation or concealment of goods, wares and merchandise, money, bonds, stocks, choses in action, notes, or other valuable documents or papers.

(5) "**Industrial plant**" means a factory, business, or concern that is engaged primarily in the manufacture or assembly of goods or the processing of raw materials, or both.

(6) "**Board**" refers to the private detectives licensing board established under section 5.1 of this chapter.

(7) "**Licensing agency**" refers to the Indiana professional licensing agency established under IC 25-1-6.

(8) "**Resident**" means a person who has established an actual domicile in Indiana.

*(Formerly: Acts 1961, c.163, s.2; Acts 1965, c.162, s.1; Acts 1967, c.171, s.1.) As amended by Acts 1982, P.L.154, SEC.88; P.L.261-1987, SEC.1; P.L.234-1989, SEC.5; P.L.214-1993, SEC.66; P.L.236-1995, SEC.46.*

#### IC 25-30-1-3 Necessity of license

Sec. 3. It shall be unlawful for a person, partnership, or corporation to engage in the business of private detective, or to solicit or advertise for business as a private detective, or represent or hold the person, partnership, or corporation out to be a private detective unless the person, partnership, or corporation is licensed under this chapter and complies with this chapter and rules adopted under this chapter.

*(Formerly: Acts 1961, c.163, s.3.) As amended by Acts 1982, P.L.154, SEC.89; P.L.234-1989, SEC.6.*

#### IC 25-30-1-4 Prior license {Repealed}

*(Repealed by P.L.214-1993, SEC.91.)*

#### IC 25-30-1-5 Exceptions

Sec. 5. This chapter does not require any of the following persons to be a licensee:

(1) A law enforcement officer of the United States, a state, or a political subdivision of a state to the extent that the officer or employee is engaged in the performance of the officer's or employee's official duties.

(2) Any person to the extent that the person is engaged in the business of furnishing and obtaining information concerning the financial rating of other persons.

(3) A collection agency licensed by the secretary of state or its employee acting within the scope of the employee's employment, to the extent that the person is making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or a debtor's assets in a property that the client has an interest in or a lien upon.

(4) An armored service agency to the extent that the agency is engaged in the business of transporting property to prevent the theft or unlawful taking of goods, wares, merchandise, or money.

(5) An attorney or employee of an attorney to the extent that the person is engaged in investigative matters incident to the delivery of professional services that constitute the practice of law.

(6) An insurance adjuster to the extent that the adjuster is employed in the investigation and settlement of claims made against insurance companies or persons insured by insurance companies if the adjuster is a regular employee of the insurance company and the insurance company is authorized to do business in Indiana and is complying with the laws regulating insurance companies in Indiana.

(7) Any employee to the extent that the employee is hired for the purpose of guarding and protecting the properties of railroad companies and is licensed as a railroad policeman under IC 8-3-17.

(8) An owner of an industrial plant or an employee of the owner to the extent that the person is hiring a plant security guard for the owner's industrial plant.

(9) A person primarily engaged in the business of furnishing information for:

(A) business decisions and transactions in connection with credit, employment, or marketing; or

(B) insurance purposes;

including a consumer reporting agency as defined by the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

(10) A retail merchant or an employee of the retail merchant to the extent that the person is hiring a security guard for the retail merchant's retail establishment.

(11) A professional engineer registered under IC 25-31 or a person acting under a registered professional engineer's supervision, to the extent the professional engineer is engaged in an investigation incident to the practice of

engineering.

(12) An architect with a certificate of registration under IC 25-4, to the extent the architect is engaged in an investigation incident to the practice of architecture.

(13) A land surveyor with a certificate of registration under IC 25-21.5, to the extent the land surveyor is engaged in an investigation incident to the practice of land surveying.

(14) A certified public accountant with a certificate under IC 25-2.1-3, to the extent that the person is engaged in an investigation incident to the practice of accountancy.

*(Formerly: Acts 1961, c.163, s.5.) As amended by Acts 1982, P.L.154, SEC.91; P.L.261-1987, SEC.2; P.L.234-1989, SEC.7; P.L.245-1995, SEC.1; P.L.42-1999, SEC.1.*

#### **IC 25-30-1-5.1 Private detective licensing board established**

Sec. 5.1. (a) The private detectives licensing board is established.

(b) The board consists of the superintendent of the state police department or the superintendent's designee and the following six (6) members appointed by the governor from different geographic regions of Indiana as determined by the governor:

(1) Two (2) private detectives licensed under this chapter who are associated with a private detective business that employs less than fifteen (15) persons.

(2) One (1) private detective licensed under this chapter who is associated with a private detective business that employs at least fifteen (15) persons.

(3) One (1) local law enforcement official.

(4) One (1) person who is not associated with the private detective business other than as a consumer.

(5) One (1) private detective licensed under this chapter who is a sole practitioner.

(c) A member of the board appointed by the governor serves a two (2) year term.

(d) The governor may remove a board member appointed by a governor for incompetency or failure to perform the member's duties under this chapter.

(e) If an appointed member cannot finish the member's term or is removed by the governor, the governor shall appoint a successor to serve for the remainder of the unexpired term.

(f) Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and

procedures established by the department of administration and approved by the budget agency.

*As added by P.L.234-1989, SEC.8. Amended by P.L.1-1990, SEC.254.*

#### **IC 25-30-1-5.3 Board shall elect president**

Sec. 5.3. The board shall, at its first meeting of each year, elect a president and a vice president from among its membership by a majority vote of all the members of the board.

*As added by P.L.234-1989, SEC.9. Amended by P.L.214-1993, SEC.68.*

#### **IC 25-30-1-5.5 Board shall adopt rules**

Sec. 5.5. (a) The board shall adopt rules under IC 4-22-2 to implement this chapter.

(b) The board may not adopt rules concerning qualifications for licensure that are so restrictive that a person may not be licensed under this chapter.

*As added by P.L.234-1989, SEC.10.*

#### **IC 25-30-1-6 Licensing agency shall assist board; perform administrative functions**

Sec. 6. The licensing agency shall assist the board by performing administrative functions under this chapter.

*(Formerly: Acts 1961, c.163, s.6.) As amended by Acts 1982, P.L.154, SEC.92; P.L.234-1989, SEC.11.*

#### **IC 25-30-1-7 Application for license**

Sec. 7. (a) An application for license as a private detective must be on a form prescribed by the board accompanied by the license fee as provided by this chapter.

(b) The application shall be verified and shall include the following:

- (1) The full name and business address of the applicant.
- (2) The name under which the applicant intends to do business as a private detective.
- (3) If the applicant is a person other than an individual, the full name and residence address of each of its members, partners, officers, and directors, and its managers.
- (4) Other information, evidence, statements, or documents required by the board.

*(Formerly: Acts 1961, c.163, s.7.) As amended by Acts 1982, P.L.154, SEC.93; P.L.234-1989, SEC.12.*

#### **IC 25-30-1-8 Qualifications for license; grounds for denial**

Sec. 8. (a) Before the application for a license is granted the applicant must meet all of the following:

- (1) Be at least twenty-one (21) years of age.
- (2) Be a resident of Indiana for at least one (1) year, except for firms, partnerships, or

corporations that are licensed in another state and who otherwise comply with this chapter.

(3) Have:

- (A) experience in private detective work under a licensee, or its equivalent;
- (B) law enforcement experience;
- (C) a degree in criminal justice; or
- (D) any other experience relevant to the private detective business;

as determined by the board.

(b) If the applicant is a corporation or a partnership, one (1) officer in the case of a corporation, or one (1) partner in the case of a partnership, must meet the personal qualifications as set out in subsection (a), unless otherwise provided.

(c) The board may deny a license unless the applicant makes a showing satisfactory to the board that the applicant has not, or if a partnership or corporation, that the officer or partner in subsection (b) has not:

- (1) committed an act, which, if committed by a licensee would be ground for the suspension or revocation of a license under this chapter;
- (2) been convicted of a:
  - (A) felony; or
  - (B) a misdemeanor that has a direct bearing upon the applicant's ability to practice competently;
- (3) been refused a license under this chapter or had a license revoked; or
- (4) while unlicensed, committed, or aided and abetted commission of an act for which a license is required by this chapter.

*(Formerly: Acts 1961, c.163, s.8.) As amended by Acts 1978, P.L.2, SEC.2549; P.L.261-1987, SEC.3; P.L.234-1989, SEC.13; P.L.214-1993, SEC.69.*

#### **IC 25-30-1-9 Continuation of business after death of license**

Sec. 9. (a) Upon the death of an individual licensed under this chapter, the business with which the decedent was connected may be carried on for a period of ninety (90) days by the following:

- (1) In the case of an individual licensee the surviving spouse, or if there is no surviving spouse, the executor or administrator of the estate of the decedent.
- (2) In case of a partner, the surviving partners.
- (3) In case of an officer of a firm, company, association, organization, or corporation, the other officers of the firm, company, association, organization, or corporation.

(b) Upon the authorization of the board, the business may be carried on for a further period of time when necessary to complete an investigation or assist in litigation pending at the death of the decedent.

(c) Nothing in this section authorizes the solicitation or acceptance of business after the death of the decedent except as provided by this chapter.

(d) Nothing in this section shall be construed to restrict the sale of a private detective business if the vendee qualifies for a license under this chapter.

*(Formerly: Acts 1961, c.163, s.9.) As amended by Acts 1982, P.L.154, SEC.94; P.L.234-1989, SEC.14.*

#### **IC 25-30-1-10 Form of license; display; identification card; change of address; assignment of license**

Sec. 10. (a) A license, when issued, shall be in a form determined by the board and shall include the following:

- (1) The name of the licensee, or the names of the individual partners if the licensee is a partnership, or the names of the officers and directors of the corporation if the licensee is a corporation.
- (2) The name under which the licensee is to operate.
- (3) The number and date of the license.
- (4) Other information the board deems necessary.

(b) The license shall be posted in a conspicuous place in the principal place of business of the licensee.

(c) Upon the issuance of a license, a pocket card of a design determined by the board shall be issued without charge to each licensee other than a corporation. If the licensee is a corporation or partnership, the pocket card must be issued to each officer, partner, and manager of the corporation or partnership who also meet the requirements under section 8 of this chapter. Each individual who is issued a pocket card under this subsection shall affix an appropriate picture to the pocket card, and in addition to the picture the pocket card shall also contain a fingerprint of the forefinger of the licensee. When a license is revoked, the pocket card shall be surrendered and, within five (5) days after revocation, shall be mailed or delivered by the licensee to the board for cancellation.

(d) The board shall furnish each of the licensee's employees, except office employees, with an identification card. The identification card shall contain a recent picture of the employee, the employee's name, the licensee's name and address, the license number of the employee's employer, and a thumbprint of the employee. The licensee shall affix each employee's picture and thumbprint to the identification card.

(e) A licensee shall, within thirty (30) days after a change, notify the board of any changes of the licensee's address, of the name under which the licensee does business, and of a change of the licensee's officers, directors, members, or partners.

(f) A license issued under this chapter is not assignable and is personal to the licensee.

*(Formerly: Acts 1961, c.163, s.10.) As amended by Acts 1982, P.L.154, SEC.95; P.L.234-1989, SEC.15; P.L.214-1993, SEC.70; P.L.236-1995, SEC.47.*

#### **IC 25-30-1-11 Employees of licensee; record; requisites**

Sec. 11. (a) A licensee may employ, to assist the licensee in the licensee's business as a private detective, as many unlicensed persons as may be necessary. The licensee is civilly responsible for the good conduct of an employee while the employee is acting on behalf of the licensee.

(b) A licensee shall maintain a record, relative to the licensee's employees, containing the following information:

- (1) A picture taken within thirty (30) days of the date that the employee commences employment with the licensee.
- (2) A full set of fingerprints of both hands of the employee.

*(Formerly: Acts 1961, c.163, s.11.) As amended by Acts 1978, P.L.2, SEC.2550; P.L.234-1989, SEC.16; P.L.214-1993, SEC.71; P.L.236-1995, SEC.48.*

#### **IC 25-30-1-12 {Repealed}**

*(Repealed by P.L.35-1984, SEC.10.)*

#### **IC 25-30-1-13 Advertisements**

Sec. 13. An advertisement by a licensee soliciting or advertising for business must contain the name and address of the licensee as they appear in the records of the board.

*(Formerly: Acts 1961, c.163, s.13.) As amended by P.L.234-1989, SEC.17.*

#### **IC 25-30-1-14 Nonresidents**

Sec. 14. (a) It shall be unlawful for a person licensed by any other state to do business in Indiana unless the person is authorized to do business in Indiana. A person may not do business in Indiana until the person is licensed with the board and meets the requirements for licensees of this state, except the residence requirement of one (1) year. In addition, an out-of-state person must prove to the board that the person is in good standing in the state the person was issued a license.

(b) A person licensed under this section must have a resident licensee:

- (1) whose name and license number appear on the license for the private detective business; and
- (2) who, in writing to the board, assumes full responsibility for the following:
  - (A) All the employees of the private detective business.
  - (B) Maintaining all records required under this chapter in an Indiana location.
  - (C) Assuring compliance with this chapter.

(c) The resident licensee is responsible for informing the board, in writing, of the following:

- (1) When the relationship with an out-of-state licensee is terminated.

(2) Where records are maintained by the resident licensee.

(d) This section does not relieve a licensee of responsibility for complying with this chapter.

*(Formerly: Acts 1961, c.163, s.14.) As amended by P.L.234-1989, SEC.18; P.L.214-1993, SEC.72.*

#### **IC 25-30-1-15 Insurance; surety bond**

Sec. 15. (a) An applicant for a private detective license who employs more than fourteen (14) others must submit proof to the board that the applicant is insured by an insurance company authorized to do business in Indiana for the amount of one hundred thousand dollars (\$100,000) liability per occurrence.

(b) An applicant for a private detective license who employs less than fifteen (15) others must do one (1) of the following:

(1) Post with the board a surety bond that:

- (A) names the applicant as the principal;
- (B) obligates the surety in the amount of seven thousand dollars (\$7,000) to the board in favor of the state;
- (C) requires the principal, if granted a license, to conduct the business of private detective faithfully and honestly and to observe all Indiana statutes; and
- (D) authorizes the board to declare the bond in default and to levy against the surety and the principal under the bond for the payment of actual damages to any person who is harmed as a result of the principal's violation of the requirements described in clause (C).

(2) Submit proof to the board that the applicant is insured by an insurance company authorized to do business in Indiana for the amount of one hundred thousand dollars (\$100,000) per liability occurrence.

(c) The insurance referred to in subsections (a) and (b)(2):

(1) must cover damages that the insured becomes legally obligated to pay for bodily injury or property damage proximately caused to a person by the insured in conducting business as a private detective;

(2) must include coverage for:

- (A) false arrest, detention, or imprisonment;
- (B) malicious prosecution; and
- (C) wrongful entry or eviction, or other invasion of the right of private occupancy; and

(3) may not exclude coverage for an intentional act taken by or at the direction of the insured that results in bodily injury, if such injury arises solely

from the use of reasonable force for the purpose of protecting persons or property.

(d) Every licensee who employs at least fifteen (15) others shall at all times maintain in force the insurance referred to in subsection (a). Upon a licensee's failure to comply with this subsection, the license of the licensee shall be suspended. A license suspended under this subsection may not be reinstated until an application for the license, in the form prescribed by the board, is filed with the board, together with proper proof of insurance.

(e) Every licensee who employs less than fifteen (15) others shall at all times maintain in force a surety bond on file with the board under subsection (b)(1) or maintain in force the insurance provided by subsection (b)(2). Upon a licensee's failure to comply with this subsection, the license of the licensee shall be suspended. A license suspended under this subsection may not be reinstated until an application for the license, in the form prescribed by the board, is filed with the board, together with proper proof of insurance or surety bond.

(f) The board may deny an application for the reinstatement of a license suspended under this section, notwithstanding the applicant's compliance with the insurance or the surety bond requirements of this section for any of the following:

- (1) Any reason that would justify a refusal to issue, a suspension, or a revocation of a license.
- (2) The performance by the applicant, while the applicant's license was suspended under this section, of any practice for which a license under this chapter is required.

(g) A surety bond posted with the board under this section may be canceled by the surety thirty (30) days after the surety gives the board written notice of its intent to cancel the bond. However, the cancellation of a bond under this subsection does not terminate the liability of the surety on the bond in connection with any action commenced before the cancellation of the bond.

*(Formerly: Acts 1961, c.163, s.15.) As amended by Acts 1982, P.L.154, SEC.97; P.L.261-1987, SEC.4; P.L.157-1988, SEC.1; P.L.234-1989, SEC.19; P.L.214-1993, SEC.73.*

#### **IC 25-30-1-16 Expiration and renewal of license**

Sec. 16. (a) Unless a license is renewed, a license and the identification cards of the licensee's employees issued under this chapter expire on a date specified by the licensing agency under IC 25-1-6-4 and expire biennially after the initial expiration date. An applicant for renewal shall pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency.

(b) If the holder of a license does not renew the license by the date specified by the licensing agency, the license

expires and becomes invalid without any action taken by the board.

(c) A licensee desiring a renewal license must:

(1) file an application for renewal at least thirty (30) days before the expiration of the licensee's license on a form as prescribed by the board; and

(2) meet the license renewal requirements determined by the board.

(d) A license may be reinstated within thirty (30) days after the expiration of the license if the applicant does the following:

(1) Files an application for renewal with the board.

(2) Meets the license requirements determined by the board.

(3) Pays a fee established under IC 25-1-8-7.

(e) Employee identification cards issued under this chapter expire at the same time as the license referred to in subsection (a).

*(Formerly: Acts 1961, c.163, s.16.) As amended by Acts 1982, P.L.154, SEC.98; P.L.234-1989, SEC.20; P.L.214-1993, SEC.74; P.L.194-2005, SEC.75.*

#### **IC 25-30-1-17 Fees**

Sec. 17. (a) The board shall charge and the licensing agency shall collect the fees established by the board under IC 25-1-8.

(b) All fees collected under this chapter shall go into the general fund and shall be accounted for by the licensing agency.

*(Formerly: Acts 1961, c.163, s.17.) As amended by Acts 1982, P.L.154, SEC.99; P.L.5-1988, SEC.137; P.L.234-1989, SEC.21; P.L.214-1993, SEC.75; P.L.194-2005, SEC.76.*

#### **IC 25-30-1-18 Administrative proceedings; grounds for suspension or revocation of license**

Sec. 18. (a) The proceedings under this chapter shall be conducted in accordance with IC 4-21.5 and the board has all powers granted under IC 4-21.5.

(b) The board may impose sanctions against a licensee under IC 25-1-11 if the board determines that the licensee has done any of the following:

(1) Forcibly and without the consent of the person in lawful possession, entered a building or portion of a building.

(2) Impersonated, or permitted or aided and abetted an employee to impersonate a law enforcement officer, an employee of the United States government, an employee of the state, or an employee of a political subdivision of the state.

(3) During the period between the expiration of a license for failure to renew within the time fixed by this chapter and the reinstatement of the license, has committed or permitted an employee

to commit an act that would be cause for suspension or revocation of a license, or grounds for the denial for the application for a license.

(4) Committed an act that is ground for a denial for an application for a license under this chapter.

*(Formerly: Acts 1961, c.163, s.18.) As amended by Acts 1978, P.L.2, SEC.2551; P.L.7-1987, SEC.127; P.L.234-1989, SEC.22; P.L.214-1993, SEC.76.*

#### **IC 25-30-1-19 Carrying a weapon**

Sec. 19. Nothing in this chapter shall be construed to authorize any licensee to carry any weapon.

*(Formerly: Acts 1961, c.163, s.19.) As amended by P.L.3-1989, SEC.147.*

#### **IC 25-30-1-19.5 Collection of civil action fees**

Sec. 19.5. A person who files a civil action to collect fees for performing acts regulated by this chapter must allege and prove that when the action arose the person was not in violation of section 22 of this chapter.

*As added by P.L.214-1993, SEC.77.*

#### **IC 25-30-1-20 Prosecuting attorneys; reporting violations**

Sec. 20. It shall be the duty of a prosecuting attorney to whom the board reports a violation of this chapter to cause proceedings to be commenced against a person violating this chapter and to prosecute the person to final termination.

*(Formerly: Acts 1961, c.163, s.20.) As amended by P.L.234-1989, SEC.23.*

#### **IC 25-30-1-21 Violations**

Sec. 21. (a) Except as provided in subsection (b), a person who violates this chapter commits a Class A misdemeanor.

(b) A person who is not exempt under section 5 of this chapter, who does not have a private detective license, and who:

(1) engages in the private detective business;

(2) solicits or advertises for business as a private detective; or

(3) in any way represents to be a private detective; commits a Class A infraction.

(c) In addition to any other fine imposed on the person, the court shall fine the person convicted of an offense under subsection (b) the amount of compensation earned by the person in the commission of the offense. Notwithstanding IC 34-28-5-4(a), the total fine imposed under this section may exceed ten thousand dollars (\$10,000) if necessary to comply with this subsection.

(d) Each transaction under subsection (b) constitutes a separate offense.

(e) A complaint for a violation of this chapter or for an injunction under section 22 of this chapter is sufficient if



the complaint alleges that a person on a specific day in a specific county:

- (1) acted as a private detective;
- (2) solicited or advertised for business as a private detective; or
- (3) represented to be a private detective; without a private detective license.

(Formerly: Acts 1961, c.163, s.21.) As amended by Acts 1978, P.L.2, SEC.2552; P.L.214-1993, SEC.78; P.L.1-1998, SEC.134.

#### **IC 25-30-1-22 Hearing procedures**

Sec. 22. (a) If the board determines that a person who is not licensed or exempt under this chapter is engaged in activities that require a license, the board may send a notice of hearing requiring the person to show cause why the challenged activities are not a violation of this chapter. The notice must be in writing and include the following information:

- (1) The date, time, and place of the hearing.
- (2) The alleged violation.
- (3) That the affected person or the person's representative may present evidence concerning the alleged violation.

(b) A hearing conducted under this section must comply with the requirements under IC 4-21.5.

(c) If the board after a hearing determines that the activities that the person engaged in are subject to licensing under this chapter, the board may issue a cease and desist order that describes the person and activities that are the subject of the order.

(d) A cease and desist order issued under this section is enforceable in the circuit courts of Indiana.

(e) The attorney general, the board, or the prosecuting attorney of any county where a violation of section 21(b) of this chapter occurs may file an action in the name of the state for an injunction.

As added by P.L.214-1993, SEC.79.

#### **IC 25-30-1.5**

##### **Chapter 1.5. Repealed**

(Transferred to IC 25-37.5 by Acts 1972, P.L.11, SEC.11.)

#### **IC 25-30-2**

##### **Chapter 2. Regulation of Polygraph Examiners by State Police**

#### **IC 25-30-2-1 As used in this chapter:**

Sec. 1. As used in this chapter:

"Department" means the state police department established under IC 10-1-1-1.

"Polygraph examiner" means a person who is solely or partly engaged in the business of establishing the truth or falsity of any statement or representation, by means of a polygraph instrument.

"Polygraph instrument" means a device that permanently and simultaneously records, at a minimum, an individual's cardiovascular and respiratory patterns and galvanic skin responses in order to determine truthfulness.

As added by P.L.250-1983, SEC.2.

#### **IC 25-30-2-2 Certificate of competence; standards and procedures**

Sec. 2. (a) The department shall issue a certificate of competence to operate a polygraph instrument to each individual who complies with the standards and procedures established by the department under subsection (b).

(b) The department shall, by rule adopted under IC 4-22-2, establish standards and procedures for granting certificates of competence to operate polygraph instruments. These standards and procedures may include one (1) or more of the following requirements:

- (1) Evidence which demonstrates that the applicant has successfully completed a course of formal training in the use of polygraph instruments.
- (2) Evidence which demonstrates the applicant's experience and competence in the operation of polygraph instruments.
- (3) A written examination.

As added by P.L.250-1983, SEC.2.

#### **IC 25-30-2-3 Revocation of certificate**

Sec. 3. The department may revoke a certificate issued under section 2 of this chapter if it determines that information given by an applicant was false.

As added by P.L.250-1983, SEC.2.

#### **IC 25-30-2-4 Rules**

Sec. 4. The department:

- (1) shall adopt rules under IC 25-1-8 to establish fees for the administration of this chapter; and
- (2) may adopt rules under IC 4-22-2 to provide any additional procedures necessary to implement this chapter.

As added by P.L.250-1983, SEC.2.

#### **IC 25-30-2-5 Use of title; violation**

Sec. 5. After December 31, 1983, an individual who has not received a certificate of competence to operate a polygraph instrument may not assume or use the title "certified polygraph examiner", "polygraph examiner", or "polygraph operator". A person who violates this section commits a Class C infraction.

As added by P.L.250-1983, SEC.2.

#### **IC 25-1-11**

##### **Chapter 11. Professional Licensing Standards of Practice**

**IC 25-1-11-1 "Board" defined**

Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) State board of cosmetology examiners (IC 25-8-3-1).
- (7) State board of registration of land surveyors (IC 25-21.5-2-1).
- (8) State board of funeral and cemetery service (IC 25-15-9).
- (9) State board of registration for professional engineers (IC 25-31-1-3).
- (10) Indiana plumbing commission (IC 25-28.5-1-3).
- (11) Indiana real estate commission (IC 25-34.1-2-1).
- (12) Real estate appraiser licensure certification board (IC 25-34.1-8).
- (13) Private detectives licensing board (IC 25-30-1-5.1).
- (14) Manufactured home installer licensing board (IC 25-23.7).
- (15) Home inspectors licensing board (IC 25-20.2-3-1).

*As added by P.L.214-1993, SEC.1. Amended by P.L.2-1995, SEC.93; P.L.234-1995, SEC.5; P.L.82-2000, SEC.6; P.L.162-2002, SEC.6; P.L.145-2003, SEC.6.*

**IC 25-1-11-2 "Practitioner" defined**

Sec. 2. As used in this chapter, "practitioner" means a person that holds:

- (1) an unlimited license, certificate, registration, or permit;
- (2) a limited or probationary license, certificate, registration, or permit;
- (3) a temporary license, certificate, registration, or permit;
- (4) an intern permit; or
- (5) an inactive license;

issued by the board regulating a profession.

*As added by P.L.214-1993, SEC.1. Amended by P.L.236-1995, SEC.1.*

**IC 25-1-11-3 "License" defined**

Sec. 3. As used in this chapter, "license" includes a license, certificate, registration, or permit.

*As added by P.L.214-1993, SEC.1.*

**IC 25-1-11-4 "Person" defined**

Sec. 4. As used in this chapter, "person" means an individual, a partnership, a corporation, or a limited liability company.

*As added by P.L.214-1993, SEC.1. Amended by P.L.236-1995, SEC.2.*

**IC 25-1-11-5 Practitioner compliance with professional standards; findings; meriting disciplinary sanctions**

Sec. 5. (a) A practitioner shall comply with the standards established by the board regulating a profession. A practitioner is subject to the exercise of the disciplinary sanctions under section 12 of this chapter if, after a hearing, the board finds that:

(1) a practitioner has:

- (A) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice, including cheating on a licensing examination;
- (B) engaged in fraud or material deception in the course of professional services or activities; or
- (C) advertised services or goods in a false or misleading manner;

(2) a practitioner has been convicted of a crime that has a direct bearing on the practitioner's ability to continue to practice competently;

(3) a practitioner has knowingly violated a state statute or rule or federal statute or regulation regulating the profession for which the practitioner is licensed;

(4) a practitioner has continued to practice although the practitioner has become unfit to practice due to:

- (A) professional incompetence;
- (B) failure to keep abreast of current professional theory or practice;
- (C) physical or mental disability; or
- (D) addiction to, abuse of, or severe dependency on alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;

(5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;

(6) a practitioner has allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual or business who renders services beyond the scope of that individual's or business's training, experience, or competence;

(7) a practitioner has had disciplinary action taken against the practitioner or the practitioner's license to practice in another state or jurisdiction on grounds similar to those under this chapter;

- (8) a practitioner has assisted another person in committing an act that would constitute a ground for disciplinary sanction under this chapter; or  
(9) a practitioner has allowed a license issued by a board to be:

- (A) used by another person; or  
(B) displayed to the public when the license has expired, is inactive, or has been revoked or suspended.

(b) If an applicant or a practitioner has engaged in or knowingly cooperated in fraud or material deception to obtain a license to practice, including cheating on the licensing examination, the board may rescind the license if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the license for a length of time established by the board. An applicant who is aggrieved by a decision of the board under this section is entitled to hearing and appeal rights under the Indiana administrative rules and procedures act (IC 4-21.5).

(c) The board may deny licensure to an applicant who has had disciplinary action taken against the applicant or the applicant's license to practice in another state or jurisdiction or who has practiced without a license in violation of the law.

(d) A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action under subsection (a)(7) or subsection (c).

*As added by P.L.214-1993, SEC.1. Amended by P.L.84-1998, SEC.6; P.L.113-1999, SEC.1.*

#### **IC 25-1-11-9.5 Investigations; summary review of complaint against practitioner**

Sec. 9.5. (a) On receipt of a complaint or an information alleging that a person licensed under this chapter has engaged in or is engaging in a practice that jeopardizes the public health, safety, or welfare, the board shall initiate an investigation against the person.

(b) Any complaint filed with the office of the attorney general alleging a violation of this chapter shall be referred to the board for summary review and for its general information and any authorized action at the time of the filing.

(c) The board shall assign one (1) or more of its members to conduct a fact finding investigation as the board considers proper in relation to the complaint.

*As added by P.L.237-1995, SEC.1.*

#### **IC 25-1-11-10 Physical and mental examination of practitioner**

Sec. 10. The board may order a practitioner to submit to a reasonable physical or mental examination if the practitioner's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding.

*As added by P.L.214-1993, SEC.1. Amended by P.L.178-1997, SEC.1.*

#### **IC 25-1-11-11 Refusal of physical or mental examination; summary suspension**

Sec. 11. Failure to comply with a board order to submit to a physical or mental examination makes a practitioner liable to summary suspension under section 13 of this chapter.

*As added by P.L.214-1993, SEC.1.*

#### **IC 25-1-11-12 Sanctions for violations**

Sec. 12. (a) The board may impose any of the following sanctions, singly or in combination, if the board finds that a practitioner is subject to disciplinary sanctions under sections 5 through 9 of this chapter:

- (1) Permanently revoke a practitioner's license.
- (2) Suspend a practitioner's license.
- (3) Censure a practitioner.
- (4) Issue a letter of reprimand.
- (5) Place a practitioner on probation status and require the practitioner to:

(A) report regularly to the board upon the matters that are the basis of probation;

(B) limit practice to those areas prescribed by the board;

(C) continue or renew professional education approved by the board until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or

(D) perform or refrain from performing any acts, including community restitution or service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.

- (6) Assess a civil penalty against the practitioner for not more than one thousand dollars (\$1,000) for each violation listed in sections 5 through 9 of this chapter except for a finding of incompetency due to a physical or mental disability.

(b) When imposing a civil penalty under subsection (a)(6), the board shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the civil penalty within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a civil penalty.

(c) The board may withdraw or modify the probation under subsection (a)(5) if the board finds after a hearing that the deficiency that required disciplinary action has been remedied or that changed circumstances warrant a modification of the order.

*As added by P.L.214-1993, SEC.1. Amended by P.L.32-2000, SEC.12.*

#### **IC 25-1-11-13 Summary suspension of practitioners**

Sec. 13. The board may summarily suspend a practitioner's license for ninety (90) days before a final adjudication or during the appeals process if the board finds that a practitioner represents a clear and immediate danger to the public's health, safety, or property if the practitioner is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for not more than ninety (90) days.

*As added by P.L.214-1993, SEC.1. Amended by P.L.178-1997, SEC.2.*

#### **IC 25-1-11-14 Reinstatement of suspended license**

Sec. 14. The board may reinstate a license that has been suspended under this chapter if, after a hearing, the board is satisfied that the applicant is able to practice with reasonable skill, safety, and competency to the public. As a condition of reinstatement, the board may impose disciplinary or corrective measures authorized under this chapter.

*As added by P.L.214-1993, SEC.1. Amended by P.L.178-1997, SEC.3.*

#### **IC 25-1-11-15 Reinstatement of revoked license**

Sec. 15. The board may not reinstate a license that has been revoked under this chapter. An individual whose license has been revoked under this chapter may not apply for a new license until seven (7) years after the date of revocation.

*As added by P.L.214-1993, SEC.1.*

#### **IC 25-1-11-16 Consistency of sanctions**

Sec. 16. The board shall seek to achieve consistency in the application of sanctions authorized in this chapter. Significant departures from prior decisions involving similar conduct must be explained in the board's findings or orders.

*As added by P.L.214-1993, SEC.1.*

#### **IC 25-1-11-17 Surrender of practitioner license**

Sec. 17. A practitioner may petition the board to accept the surrender of the practitioner's license instead of having a hearing before the board. The practitioner may not surrender the practitioner's license without the written approval of the board, and the board may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

*As added by P.L.214-1993, SEC.1.*

#### **IC 25-1-11-18 Costs; practitioners subjected to sanctions**

Sec. 18. A practitioner who has been subjected to disciplinary sanctions may be required by a board to pay the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

- (1) Court reporters.
- (2) Transcripts.
- (3) Certification of documents.
- (4) Photo duplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.
- (7) Expert witnesses.
- (8) Depositions.
- (9) Notarizations.

*As added by P.L.214-1993, SEC.1.*

### **TITLE 862 PRIVATE DETECTIVES LICENSING BOARD**

#### **ARTICLE 1. PRIVATE DETECTIVES**

##### **Rule 1. General Provisions**

##### **862 IAC 1-1-1 Definitions**

**Authority:** IC 25-30-1-5.5

**Affected:** IC 25-30-1-2

Sec. 1. All terms defined in the Detective License Law (IC 25-30) shall have the same meaning when used in this title. (*Private Detectives Licensing Board; Private Detective License Law Rule I; filed Feb 5, 1979, 2:45 p.m.: 2 IR 299; filed Nov 15, 1994, 10:40 a.m.: 18 IR 879*) *NOTE: Transferred from State Police Department (240 IAC 4.1-1-1) to Private Detectives Licensing Board (862 IAC 1-1-1; readopted filed May 22, 2001, 9:54 a.m.: 24 IR 3237) by P.L.234-1989, SECTION 25, effective July 1, 1989.*

##### **862 IAC 1-1-2 Forms**

**Authority:** IC 25-30-1-5.5

**Affected:** IC 25-30-1-7; IC 25-30-1-10

Sec. 2. (a) All applications for a license as a private detective shall be submitted on a form as prescribed by the board.

(b) The identification card, furnished to each employee of a licensee, except office employees, under IC 25-30-1-10(d) shall be surrendered by the employee to the licensee upon termination of employment or termination of license for any reason. The licensee shall forward such card to the board for cancellation within five (5) days of its surrender. (*Private Detectives Licensing Board; Private*

*Detective License Law Rule II; filed Feb 5, 1979, 2:45 p.m.: 2 IR 299; filed Nov 15, 1994, 10:40 a.m.: 18 IR 879* NOTE: Transferred from State Police Department (240 IAC 4.1-1-2) to Private Detectives Licensing Board (862 IAC 1-1-2 ; readopted filed May 22, 2001, 9:54 a.m.: 24 IR 3237) by P.L.234-1989, SECTION 25, effective July 1, 1989.

### **862 IAC 1-1-3 Experience requirement**

**Authority:** IC 25-30-1-5.5

**Affected:** IC 25-30-1-8

Sec. 3. (a) This section establishes the experience requirements under IC 25-30-1-8(a)(3) for a private detective license. All individual applicants, at least one (1) individual of a partnership applicant, and at least one (1) officer of a corporate applicant must meet the requirements in this section.

(b) The experience requirements shall be two (2) years of experience as verified by four thousand (4,000) hours of employment in any of the following areas or combination of areas:

- (1) In private detective work having been issued an identification card as an employee under a licensee.
- (2) As an investigator for the United States Department of Justice or for the United States Department of the Treasury.
- (3) As a criminal investigator with the Armed Forces of the United States.
- (4) As a sheriff's investigator.
- (5) As a railroad detective.
- (6) As a claims investigator for an insurance company.
- (7) As a licensed and practicing attorney at law or as an investigator for a practicing attorney.
- (8) As a police officer for any federal, state, or local unit of government.
- (9) As a full-time manager or administrator for a licensed private security contractor agency or as a manager or administrator of a proprietary security force of twenty (20) or a lesser number with equivalent experience as determined by the board.

*(Private Detectives Licensing Board; Private Detective License Law Rule III; filed Feb 5, 1979, 2:45 p.m.: 2 IR 299; filed Nov 15, 1994, 10:40 a.m.: 18 IR 880; readopted filed May 22, 2001, 9:54 a.m.: 24 IR 3237; filed Jul 22, 2004, 10:00 a.m.: 27 IR 4020) NOTE: Transferred from State Police Department (240 IAC 4.1-1-3) to Private Detectives Licensing Board (862 IAC 1-1-3) by P.L.234-1989, SECTION 25, effective July 1, 1989.*

### **862 IAC 1-1-4 Violation of private detective license law; effect on application**

**Authority:** IC 25-30-1-5.5

**Affected:** IC 25-30-1-8

Sec. 4. The board may not consider an application for a private detective license if the applicant or an officer or partner of the applicant under IC 25-30-1-8(b), has acted as a private detective agency in violation of the private detective license law or this title within a period of two (2) years prior to the date of the applicant's application nor shall any such time be considered in determining required experience under section 3 of this rule. *(Private Detectives Licensing Board; Private Detective License Law Rule V; filed Feb 5, 1979, 2:45 p.m.: 2 IR 300; filed Nov 15, 1994, 10:40 a.m.: 18 IR 880; errata filed Jan 11, 1995, 3:45 p.m.: 18 IR 1481) NOTE: Transferred from State Police Department (240 IAC 4.1-1-5) to Private Detectives Licensing Board (862 IAC 1-1-4; readopted filed May 22, 2001, 9:54 a.m.: 24 IR 3237) by P.L.234-1989, SECTION 25, effective July 1, 1989.*

### **862 IAC 1-1-5 Employee identification card**

**Authority:** IC 25-30-1-5.5

**Affected:** IC 25-30-1-11

Sec. 5. Before any employee of a licensee, except office employees, may perform any duty on behalf of a licensee, or engage in any manner in the conduct of the business of the licensee in Indiana, the employee must be in receipt of an identification card issued by the board.

*(Private Detectives Licensing Board; Private Detective License Law Rule VI; filed Feb 5, 1979, 2:45 p.m.: 2 IR 300; filed Nov 15, 1994, 10:40 a.m.: 18 IR 881) NOTE: Transferred from State Police Department (240 IAC 4.1-1-6) to Private Detectives Licensing Board (862 IAC 1-1-5; readopted filed May 22, 2001, 9:54 a.m.: 24 IR 3237) by P.L.234-1989, SECTION 25, effective July 1, 1989.*

### **862 IAC 1-1-6 Advertising**

**Authority:** IC 25-30-1-5.5

**Affected:** IC 25-30-1-13; IC 35-43-4-3; IC 35-43-5-3

Sec. 6. (a) Any advertisement by a licensee, or by any employee, member, officer, director, or manager of a licensee, must contain the full name, business address, and license number of the licensee as they appear in the records of the board. Such advertising shall include, but is not limited to, the following:

- (1) Business cards.
- (2) Identification cards.
- (3) Letterhead.
- (4) Invoices.

(5) Other forms that may be used to advertise the licensee's business.

(b) No written or verbal advertisement by any licensee, or by any employee, member, officer, director, or manager of a licensee, shall contain any inference that the licensee or any such person is connected with or in any manner represents any local, state, or federal law enforcement agency.

(c) This section shall not be construed to prevent the proper use of the forms and cards authorized by the private detective license law and this article or any other legitimate advertising, but is intended solely for the purpose of preventing misleading or false advertising within the meaning and intent of IC 35-43-4-3 and IC 35-43-5-3. (*Private Detectives Licensing Board; Private Detective License Law Rule VII; filed Feb 5, 1979, 2:45 p.m.: 2 IR 300; readopted filed May 22, 2001, 9:54 a.m.: 24 IR 3237; filed May 27, 2003, 11:05 a.m.: 26 IR 3341*)  
*NOTE: Transferred from State Police Department (240 IAC 4.1-1-7) to Private Detectives Licensing Board (862 IAC 1-1-6) by P.L.234-1989, SECTION 25, effective July 1, 1989.*

#### **862 IAC 1-1-7 Nonresident applicants**

**Authority:** IC 25-30-1-5.5

**Affected:** IC 25-30-1-14

Sec. 7. (a) All persons who are licensed to conduct private detective business in any state other than Indiana, who apply for an Indiana private detective license, shall furnish to the board, in addition to all other forms and documents required under IC 25-30 or this title, the following:

(1) A photostatic copy of the current private detective license from each state other than Indiana in which such applicant is licensed to conduct private detective business.

(2) A letter from the licensing authority for private detectives in each state in which licensed to conduct private detective business stating that such applicant is in good standing in that state or in those states.

(b) An out-of-state licensee must have a resident licensee as required by IC 25-30-1-14.

(c) The obligation of the resident licensee under IC 25-30-1-14(c) shall be completed within five (5) business days of the termination of the resident licensee's relationship with the out-of-state licensee.

(d) An out-of-state licensee must obtain a new resident licensee within sixty (60) days of the termination of the relationship with the previous resident licensee, and the new resident licensee must comply with IC 25-30-1-14(b)(2). (*Private Detectives Licensing Board; Private Detective License Law Rule VIII; filed Feb 5, 1979, 2:45 p.m.: 2 IR 300; filed Nov 15, 1994, 10:40 a.m.: 18 IR 881*)

*NOTE: Transferred from State Police Department (240 IAC 4.1-1-8) to Private Detectives Licensing Board (862 IAC 1-1-7; readopted filed May 22, 2001, 9:54 a.m.: 24 IR 3237) by P.L.234-1989, SECTION 25, effective July 1, 1989.*

#### **862 IAC 1-1-8 Payment of license fee (Repealed)**

Sec. 8. (*Repealed by Private Detectives Licensing Board; filed Nov 15, 1994, 10:40 a.m.: 18 IR 881*)

#### **862 IAC 1-1-9 Names of licensees; limitations (Repealed)**

Sec. 9. (*Repealed by Private Detectives Licensing Board; filed Nov 15, 1994, 10:40 a.m.: 18 IR 881*)

#### **862 IAC 1-1-10 Four year degree required**

**Authority:** IC 25-30-1-5.5

**Affected:** IC 25-30-1-8

Sec. 10. The provision in IC 25-30-1-8 referring to a degree in criminal justice shall be interpreted to mean a bachelor's degree in criminal justice. (*Private Detectives Licensing Board; 862 IAC 1-1-10; filed Jul 17, 1998, 3:04 p.m.: 21 IR 4536; readopted filed May 22, 2001, 9:54 a.m.: 24 IR 3237*)